



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

2005 Workers' Compensation Reform Initiatives
Fact Sheet

I. Major Components of Legislative Recommendations for the 2005 Legislative Omnibus Workers' Compensation Bill

- Clearly define and delineate who can be an attending physician. Provide a "gate keeper" system for employees and employers.
- Redefine employment exemptions, allowing owners of small businesses to be exempt from paying workers' compensation insurance on themselves. This measure exempts anyone having a 50% interest in limited liability companies, limited liability partnerships, sole proprietorships, and services performed by a partner of a partnership from obtaining workers' compensation coverage.
- Define Medical Maximum Improvement to clearly establish when an injured employee is entitled to temporary total disability payments versus permanent total disability, and temporary partial disability, or permanent partial disability.
- Eliminate stress claims resulting from personnel action taken in good faith.
- Allow for employer-mandated choice of network of physicians.
- Allow third parties to recommend an actuary to the director, which may be used to update the medical fee schedule.
- Clearly define acceptable Vocational Rehabilitation plans to control costs and allow greater employer input.
- Allow the Insurance Fraud Unit of the Insurance Commissioner's office to investigate workers' compensation fraud.

II. Major Components of Proposed Administrative Rules Changes

The proposed changes are intended to address several cost drivers of Hawaii's workers' compensation system that will result in cost savings to the system. These changes are also intended to modernize our workers compensation system that will bring efficiency, transparency and accountability, while ensuring that our injured workers are provided quality medical treatment based on scientific medical evidence. The major changes include:

- **Hearings Process.** Clear directives on the workers' compensation hearings process, including the discovery process, how and when hearings should be scheduled and the manner they should be conducted. The proposed rules will improve the efficiency of the hearings process, which will result in more cases being resolved in a timely manner. The ability to resolve disputes and render decisions on cases in a timely manner reduces the overall costs of the process.
- **Alternative Resolution of Claims.** Allowing parties to resolve their disputes through a private hearings officer, which will likely lead to claims resolving in a timely and more efficient manner. Similar forms of alternative resolution methods have proven to be efficient and cost effective in resolving claims outside of the workers' compensation system.
- **Disciplinary Action.** Clarification of what constitutes a "disciplinary action." Any alleged injury resulting from disciplinary action is not compensable under Hawaii's workers' compensation laws; however, currently there is no definition of what constitutes disciplinary action. This change will provide employees, employers and hearings officers clear directives of types of personnel actions that are precluded under our workers' compensation laws.
- **Vocational Rehabilitation.** Provide clear directives in determining whether or not an injured employee is qualified to enter a Vocational Rehabilitation ("VR") program. The proposed rules also encourage the employee, the medical provider, and the employer to work cooperatively in designing and monitoring the employee's vocational rehabilitation program. They also encourage employers to provide an effective back-to-work program. These rules will help control costs associated with Vocational Rehabilitation.
- **Adoption of Evidence Based Treatment Guidelines.** Treatment guidelines are an effective tool to ensure occupational injured or ill workers receive quality medical care at a reasonable cost to employers. The amendments will require medical providers to treat the injured worker in accordance with the ODG Treatment in Workers' Comp, 3rd edition, issued by the Work Loss Data Institute and the treatment guidelines, chapters 1-7, issued by the American College of Occupational and Environmental Medicine, 2nd Edition, shall be presumptive. For all injuries not covered under these treatment guidelines, treatment shall be in accordance with the evidence based medical treatment guidelines. The proposed rules also allow medical providers to deviate from these guidelines as individual cases dictate. Many states were successful in realizing cost savings by adopting treatment guidelines while ensuring the injured worker receives quality medical care.